S.B. Cr. Misc. Bail Application No.3720/2006
Ram Narayan Vs. State of Rajasthan
Date of Order : 30.08.2006

HON'BLE JUSTICE SHRI SATYA PRAKASH PATHAK

Mr. A.L. Dave for petitioner.
Mr. V.R. Mehta, Public Prosecutor.

On refusal of prayer to extend the protection available under Section 438 of the Code of Criminal Procedure, 1973 (in short the 'Code') to the petitioner by the Presiding Officer, District & Sessions Judge, Jodhpur in Criminal Misc. Case No.1150/2006 arising out of FIR No.165/2006 for the offence punishable under Sec. 406 and 420 IPC, the petitioner has approached this Court.

In this case, a widow lady with six daughters, without the umbrella of husband, while discharging her responsibilities by carrying on business in spices, purchased properties for expansion of business with the cost of about Rs.20 lacs but was subjected to fraud and cheating. The properties were said to be purchased though petitioner, who was posing himself as her well wisher and in whom she had faith as he was the friend of her husband but he got the

properties registered in his own name leaving her in a dilemma, fighting for her rights.

A brief reference to the factual position is as under:

1. Smt. Bagwanti Devi filed a report at Police Station Sadar Kotwali, Jodhpur stating inter-alia, that after death of her husband she engaged herself in the business of her husband at Girdikot in spices and for the requirement of more space for the business had agreed to purchase two shops on Manak Chowk road for a consideration of Rs.7 lacs and it was decided that the registry of this property to be got done in the name of her daughter Usha. She paid the consideration for the purpose, however, petitioner Ram Narayan, who was a friend of her husband, got the registry done in his own favour and when she asked him about this he told that as there were fractions with the in-laws' family of Usha, it would have caused trouble and therefore he will now transfer all the rights of the property in her favour and accordingly an authority letter alongwith the registry was given to her. It is said that thereafter another property adjoining to the

purchased property was agreed to be purchased by her through Ram Narayan for Rs.12 lacs and the amount was paid by her and possession thereof was received, however, its registry was not got done in her favour and when she inquired about it she came to know that the registry for that property was got done in favour of Ram Narayan and thereby he committed offences punishable under Sec.406, 420,467, 468 and 471 IPC. Prayer was made to take action against him and justice be done to her.

2. On the aforesaid report, First Information Report No.165/2006 dated 03.08.2006 was registered and police started investigation.
3. Accused petitioner, apprehending his arrest has preferred the present bail application.

The contention of the learned counsel is that the properties, which have been purchased and made subject matter of the present case, have been purchased by the petitioner under registered sale deeds and regarding the property purchased from the Lrs of Sundarlal, a mention

has been made in the Income-tax return also. It has been submitted that the complainant and his daughters were not present at the time when agreement in relation to purchase of adjoining property was made. It has also been contended that the present case is the result of a conspiracy hatched against the petitioner, who is an old and respectable person of the society. It has also been submitted that the complainant's version that she and her daughters started business after the death of her husband is absolutely not correct as the daughters of the complainant are well educated and one of them is studying in engineering college and others are studying in other college and schools and the complainant has cooked up a story and this fact would further be proved by the fact that in the First Information Report the petitioner's status has been shown as a Driver whereas the petitioner was never a Taxi Driver nor ever plied taxi but is a respectable person of the society. It has also been contended that infact a conspiracy was hatched at the time when the petitioner had to go to Palanpur on account of his wife's illness and behind him the complainant who was in need of shops to increase her business, in collusion with the police demolished the

property of the petitioner and lodged a false case against him. The learned counsel has placed before me photocopies of FIR and a registered sale deed made in favour of the petitioner by Smt. Maina Devi w/o Mohan Lal. Petitioner has also submitted copies of affidavit of Maina Devi and treatment slips concerning the wife of petitioner. The contention of the learned counsel is that petitioner by profession is an Astrologer and enjoys a very good reputation in the society and the complainant in collusion with other persons including police personnel wants to grab the property of the petitioner and to put pressure on the petitioner, this false case has been lodged against him.

Learned Public Prosecutor has opposed the application.

After carefully considering the submissions made before me and taking into consideration the fact that presently the matter is pending investigation, therefore, it shall not be proper for me to express any opinion in relation to the merits of the case but in the facts and circumstances of the present case, I do not find it to be a fit case for

granting benefit of bail to the petitioner under Sec.438 of the Code.

Accordingly, the bail application moved by petitioner stands rejected.

(SATYA PRAKASH PATHAK)J.

/jpa